

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DOUG BRIGGS, individually and as Personal
Representative of THE ESTATE OF BARBARA
DREYFUSS,

Plaintiff,

v.

LIFE CARE CENTERS OF AMERICA, INC., a
foreign corporation; LAKE VUE OPERATIONS,
LLC, a foreign limited liability company;

Defendants.

DARCY KOVACS, individually and as Personal
Representative of THE ESTATE OF ROBIN
HAMRICK,

Plaintiff,

v.

LIFE CARE CENTERS OF AMERICA, INC., a
foreign corporation; LAKE VUE OPERATIONS,
LLC, a foreign limited liability company.

Defendants.

NO. 2:21-cv-00740-MJP

**JOINT AGREED PRETRIAL
ORDER**

NO. 2:21-cv-00741-MJP

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1 Pursuant to LCR 16, the parties jointly submit this pretrial order.

2 **JURISDICTION**

3 Jurisdiction is vested in this Court by virtue of 28 U.S.C. § 1332(a) because there is
4 complete diversity between the parties and the amount in controversy exceeds \$75,000.
5 Plaintiffs are both citizens of the State of Washington. Defendants Life Care Centers of
6 America, Inc. and Lake Vue Operations, LLC are citizens of the State of Tennessee. Defendant
7 Ellie Basham was a citizen of the State of Georgia upon the removal of this case.

8 **CLAIMS AND DEFENSES**

9 The Plaintiffs will pursue at trial the following claims:

- 10 1. Medical negligence;
11 2. Abuse of Vulnerable Adults Act, RCW 74.34 *et. seq.*

12 **ADMITTED FACTS**

13 The following facts are admitted by the parties:

- 14 1. Robin Hamrick was admitted to Life Care Centers of Kirkland on May 7, 2019.
15 Ms. Hamrick died on March 14, 2020.
16 2. Barbara Dreyfuss was admitted to Life Care Centers of Kirkland on May 20,
17 2019. Ms. Dreyfuss died on March 1, 2020.
18 3. Doug Briggs was appointed as the personal representative for the Estate of
19 Barbara Dreyfuss by King County Superior Court on August 18, 2020.
20 4. Darcy Kovacs was appointed as the personal representative for the Estate of
21 Robin Hamrick by King County Superior Court on September 28, 2020.
22 5. Life Care Centers of Kirkland is a long-term care facility located in King
23 County, Washington.

24 **ISSUES OF LAW**

25 The Court has already made factual determinations on Defendants' Motion for
26 Summary Judgment. The remaining determinations will be made by a jury.



EXPERT WITNESSES

The names and addresses of the expert witnesses to be used by each party at the trial and the issue upon which each will testify is:

1. On behalf of Plaintiffs:

Name and Address	Nature of Expected Testimony	Trial Testimony
John J. Cascone, MD 1801 W. 32 nd Street, Bldg. C; Suite 210 Joplin, MO 64804	Dr. Cascone is expected to testify about his years of experience with infectious diseases and working in long-term-care facilities. He is expected to testify about	Will be testifying via Zoom
Susan K. Smith, DNP, RN, CEN, CCRN, CNLCP, CWOCN 4498 Meadow Wood Lane Warriors Mark, PA 16877	Ms. Smith is expected to testify about her years of experience in nursing and experience addressing Covid-19 in healthcare facilities.	Will be testifying via Zoom

2. On behalf of Defendants:

Name and Address	Nature of Expected Testimony	Trial Testimony
Morgan Katz, MD, MHS Assistant Professor Division of Infectious Diseases Johns Hopkins University School of Medicine MFL building, Center tower John Hopkins Bayview Campus Eastern Avenue, Suite 360 Baltimore, MD 21224	Dr. Katz will testify about her extensive experience as an epidemiologist in long-term care facilities, and will testify about the state of information known about COVID-19, the nature of transmission, and the difficulty for long term care facilities to deal with COVID-19	Will be testifying
Peter Hashisaki, MD 9023 NE 47th St. Bellevue, WA 98004	Dr. Hashisaki will testify about his experience as Chair of the Infectious Disease department at Overlake Hospital in January and February 2020, the lack of testing for	Will be testifying



Name and Address	Nature of Expected Testimony	Trial Testimony
	COVID-19 and the impact of this lack on stopping transmission, and his review of Life Care of Kirkland's infectious disease protocols.	
Connie E. Cheren, RN, MSW Quality Care Assurance 2001 Breckenridge Lane Alpharetta, GA 30005	Ms. Cheren will testify as to her experience in assisting skilled nursing facilities with regulatory issues, specifically what guidance was available to nursing homes in January and February 2020	Will be testifying
Sabine Maria von Preyss-Friedman, MD, FACP, CMD 10573 – 14th Ave NW Seattle, WA	Dr. von Preyss-Friedman will testify about her experience as a medical director at greater Seattle area nursing homes, the information nursing homes received from local and federal health agencies, and what her buildings did in response to review of what happened at Life Care of Kirkland	Will be testifying

3. The parties reserve the right to call any expert witness disclosed by the other party to testify.

OTHER WITNESSES

The names and addresses of witnesses, other than experts, to be used by each party at the time of trial and the general nature of the testimony of each are:

1. On behalf of Plaintiffs:

Name and Address	Nature of Expected Testimony	Trial Testimony
Doug Briggs 10214 NE 139 th Street Kirkland, WA 98034	Mr. Briggs may be called to testify about Ms. Dreyfuss, allegations in the Complaint, damages, and about his experiences with LCKK	Will be testifying.



Name and Address	Nature of Expected Testimony	Trial Testimony
Darcy Kovacs 16050 NE 27 th Street Bellevue, WA 98008	Ms. Kovacs may be called to testify about Ms. Hamrick, allegations in the Complaint, damages, and her experiences with LCKK	Will be testifying.
Diana Briggs 10214 NE 139 th Street Kirkland, WA 98034	Ms. Briggs may be called to testify about Ms. Dreyfuss, allegations in the Complaint, damages, and about her experiences with LCKK	Will be testifying.
Meri Dreyfuss 233 Rountree Way San Rafael, CA 94903	Meri Dreyfuss may be called to testify about allegations in the Complaint, Barbara Dreyfuss and damages	Will be testifying via Zoom.
Hilary Dreyfuss 1 Avondale Landing Alameda, CA 94502	Hilary Dreyfuss may be called to testify about allegations in the Complaint, Barbara Dreyfuss, and damages	Will be testifying via Zoom.
Alice Cortez	Ms. Cortez is expected to testify about her role as LCKK's Infection Prevention and Control Specialist; LCKK's infection control policies, procedures, and actions; and her knowledge concerning the outbreak at LCKK in early 2020	Will be testifying via video deposition.
Ellie Basham	Ms. Basham is expected to testify about her role as LCKK's Executive Director	Will be testifying live.
Bill Gruschow	Mr. Gruschow is expected to testify about his role as LCKK's Director of Nursing Services	Plaintiff's will read Mr. Gruschow's deposition.
Ngim "Christy" Carmichael, P.A. c/o Ryan, Swanson & Cleveland, PLLC 1201 Third Ave., Ste 3400 Seattle, WA 98101	Ms. Carmichael was a physician assistant who cared for residents in January and February 2020 who is expected to testify about her experience in caring for residents and the COVID-19 outbreak.	Expected to testify. Plaintiff is attempting to subpoena.

2. On behalf of Defendants:

Name and Address	Nature of Expected Testimony	Trial Testimony
Alice Cortez c/o Ryan, Swanson &	Ms. Cortez is expected to testify about her work as the Infection	Will testify



Name and Address	Nature of Expected Testimony	Trial Testimony
Cleveland, PLLC 1201 Third Ave., Ste 3400 Seattle, WA 98101	Prevention and Control nurse, the policies in place at Life Care of Kirkland, and her knowledge of and actions in regard to the COVID-19 outbreak	
Ellie Basham c/o Ryan, Swanson & Cleveland, PLLC 1201 Third Ave., Ste 3400 Seattle, WA 98101	Ms. Basham was the facility executive director who is expected to testify about her experience at the facility with the COVID-19 outbreak	Will testify
Dr. Dhihendra Kumar c/o Ryan, Swanson & Cleveland, PLLC 1201 Third Ave., Ste 3400 Seattle, WA 98101	Dr. Kumar was a physician who cared for residents in January and February 2020 and was the facility medical director who is expected to testify about his experience in caring for residents, the facility's infection control protocols and the COVID-19 outbreak	Will testify
Nancy Butner c/o Ryan, Swanson & Cleveland, PLLC 1201 Third Ave., Ste 3400 Seattle, WA 98101	Ms. Butner is a Life Care regional employee who is expected to testify about knowledge of the positive COVID-19 test in late February 2020 and the facility's response	May testify

3. Inclusion of any witness on either of the above lists does not constitute a waiver by either party to object to and/or seek exclusion of any of the above-named witnesses.

EXHIBITS

See attached Exhibit A. All parties reserve the right to offer and use additional exhibits for purposes of rebuttal or impeachment. The parties reserve the right to offer any exhibit identified by the other party. The parties reserve the right to withdraw or not offer any exhibit identified in Exhibit A.

DEPOSITION EXCERPTS

Plaintiffs will use the deposition of Bill Gruschow at trial. Pursuant to LCR 32(e), Plaintiffs have provided Defendants with a copy of Mr. Gruschow's deposition transcript with



relevant portions highlighted. Defendants have counter-designated by highlighting the copy of Mr. Gruschow's deposition transcript.

ACTION BY THE COURT

1. This case is scheduled for trial before a jury on May 10, 2023, at 9:00 a.m.
2. Trial briefs have been submitted to the court.
3. Jury instructions have been finalized.

This order has been approved by the parties as evidenced by the signatures of their counsel. This order shall control the subsequent course of the action unless modified by a subsequent order. This order shall not be amended except by order of the court pursuant to agreement of the parties or to prevent manifest injustice.

DATED this 10th day of May, 2023.



Marsha J. Pechman
United States Senior District Judge



1 Form Approved:

2 /s/ Kristin Nealey Meier

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